



## SECTION 4

# Reduction-in-Force

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# Reduction-in-Force

## Background

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The Department of Personnel convened a Reduction-in-Force (RIF) Concept Design Team composed of 15 members representing state agencies, higher education institutions, and labor. Team members are listed at the end of this section.

The team developed options surrounding many aspects of RIF, from how to avoid or mitigate a RIF, to what criteria should be used to determine how a position is identified for layoff, how employee retention is determined, and how rehire priority is established. The team endeavored to identify ideas that addressed concerns expressed in customer surveys, and possible effective remedies for some of the most widely heard complaints and concerns regarding the RIF process.

For all options pertaining to RIF issues, the team considered the consensus-based products of the “merger task force”, a group formed in the 1990’s to merge general government and higher education rules pertaining to RIF. In many cases, the team recommended further consideration of those products. However, when they were written, the RCW still required seniority as the sole basis for layoff and rehire, and a rule of seven for other referrals. The civil service reform law has eliminated these requirements. Therefore, the products from the merger task force were not always a preferred option.

After careful review of the team’s recommendations, the Department of Personnel identified the most viable options. These are presented herein for consideration and feedback from a broader audience.

## Summary of Customer Comments and Problem Identification

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The team reviewed the data and comments provided by managers and employees as part of the 2002 DOP customer research. The following excerpts from the customer research report summarize many of the key concerns with the existing RIF process and served as important considerations when identifying viable options:

Historically, by law, the sole basis for determining who would be laid off during a reduction-in-force has been seniority; the most junior employees are the ones who are bumped and laid off. In designing the new HR system, managers, employees, and HR professionals were asked whether the basis for layoff should be seniority only, performance only, or a combination of the two. The majority felt that the basis for layoff should be a combination of seniority and performance.

Employees and managers strongly favor a combination of seniority and performance. For the most part, those in favor of a combination felt that while

longevity should be valued and appreciated, organizations cannot afford to lose strong performers just because they have less seniority.

The logic of laying off high performers and retaining poor performers solely on the basis of hire date does not resonate well with most employees and managers for various reasons. Generally, the respondents indicated that citizens are best served, and resources best utilized, by retaining persons who can best get the job done. Some commented that in difficult economic times, it is all the more important to retain highly productive employees. Others indicated frustration or distaste for continued protection of unproductive employees who seem to be just putting in their time.

Many of those who favor performance as a consideration in layoff, also strongly stress that the performance assessment and decisions be fair and credible – that safeguards must be in place to prevent favoritism or other abuse.

Most of those who advocate a seniority-only basis for layoff comment that this is the only fair and objective approach. Generally, they feel that performance cannot or won't be objectively measured and that this would open up the door for favoritism, patronage, and other unfair treatment. Some were concerned that senior, more expensive employees would be targeted to save more costs.

Some respondents offered alternative approaches. Most common was to retain persons on the basis of the critical needs of the organization, i.e., those who have the competencies most needed to carry out the mission of the organization, regardless of their job. There were a few suggestions that first to be laid off should be those who are eligible to retire.

On the related issue of determining re-employment from layoff, 64% of employees felt that a combination of performance and seniority should be the deciding factor. While sensitive to a laid off employee's situation, most respondents did not consider it wise to force placement of someone in a job for which he/she is not well suited. Focus group discussions supported this view and explored the value of a RIF support system that offers alternatives to guaranteed re-employment, such as re-training, severance pay, and/or outplacement services.

Several other issues identified by agencies as problematic in the present system include:

- Calculation of seniority is too cumbersome
- Bumping process is horrendous, disruptive, and very expensive
- Bumping does not provide for best job matches
- RIF rehires do not have a review period
- RIF is used to deal with performance problems
- Time frame on RIF registers is too long
- Rule of 1 for re-employment from RIF is too restrictive

Managers don't understand the process

Formal layoff options vs. informal options are too confusing and sometimes too limited

Reasons for RIF are too restrictive

Definition of reasonable commuting distance is not consistent

RIF candidates have the right to refuse a vacancy

## **RIF Recommendations:**

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### **Reduction-in-Force Avoidance**

Recognizing that RIF actions are viewed by employees and managers as undesirable, strategies for RIF avoidance and mitigation were sought. The more options that can be available to mitigate RIF the better.

It is important to note that the reasons for RIF (e.g., lack of funds, lack of work, or reorganization for efficiency purposes) and its scope (e.g., size of the budget cut and the number of positions to be affected) will play a key role in determining when to implement RIF avoidance strategies and in determining which ones are likely to be most effective.

#### *Recommendation:*

*Approaches to avoid or mitigate layoff that are pragmatically and statutorily viable within are listed below. Many of these are currently available. Some might need new authorization.*

*Part-time and job-sharing alternatives*

*Reassignment to vacancies*

*Voluntary demotion*

*Voluntary leave without pay*

*Voluntary RIF*

*Severance package for voluntary resignation*

*Outplacement*

*Contracting in (expand fee based services)*

*Hiring freeze (employer determined)*

*Inter-agency agreements for transfer of layoff-risk employees to other agencies*

## **Seniority Calculation**

The present process for calculating seniority is very complex, difficult to understand, and requires manual calculations and verification of seniority, thus taking a lot of time and staff resources. General government HR managers have expressed a strong desire to have seniority calculated by the computerized human resource information system. A simplified method of calculating seniority that is fair and equitable while reasonable to administer is recommended.

### *Recommendation:*

*Retain current seniority calculation methods for higher education. Make the following changes for general government:*

- *Eliminate the requirement of adjusting seniority by calculating intervening non-working days*
- *Only count paid time worked when calculating seniority<sup>1</sup>*
- *Other simplification to allow calculations through automated HR information system*

## **Employee Retention Options During RIF**

Optional criteria for determining preference in who would be retained in the event of a reduction-in-force are discussed below. Six categories of options are presented: staff retention options; layoff units; vacancy options; bumping; performance factors; and, skill and competency requirement options.

### **1. Staff Retention Factors (for managers and employees)**

As mentioned previously, in the 2002 DOP customer survey, the majority of employees and managers felt that performance should somehow be factored into layoff decisions. Some respondents felt that seniority should be the only factor; and some felt that performance should be the only factor.

Seniority should continue to be a key factor in determining layoff. But other legitimate factors should also be considered where appropriate. DOP concurs with the RIF Concept Design Team that agencies and institutions should be given the discretion to determine, within guidelines, what combination of factors best meet their business needs, organization culture, and readiness.

### *Recommendation:*

*In addition to seniority, agencies/institutions should be authorized by rule to include their choice of other factors in its layoff plan or policy, such as performance, skills/competencies, and/or other legitimate business requirements.*

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<sup>1</sup> Unless legally required, such as unpaid military leave.

This option for staff retention allows flexibility for agencies/institutions to develop plans for a wide variety of job classes and to meet the needs of negotiated agreements. If any decisions about bumping, who to retain, and who to lay off continue to be within an organization, differences between agencies should not be a problem.

## **2. Layoff Unit Composition**

### *Recommendation:*

*Leave up to agency/institution to determine or negotiate layoff unit composition without centrally imposed criteria. New rules or procedures should maintain the permissive concept of a series of progressively larger units and the ability to have separate units for special employment programs.*

## **3. Vacancy Options:**

The RIF Concept Design Team felt there should be the ability to offer more alternatives to vacancies before considering bumping.

### *Recommendations:*

*Provide the ability to consider vacancies where the person has not held permanent status.*

*Providing the ability to retain current pay level to a vacancy that would technically be a demotion could provide an incentive to accept a vacant position.*

## **4. Bump Options:**

The RIF Concept Design Team identified a number of possible options ranging from a stringent requirement not allowing bumping, to having a variable bumping policy that would be discretionary to the agency/institution.

### *Recommendation:*

*Bumping should be allowed into job classes in the class series in which permanent status has been held.*

It is important to note that the specifics of this recommendation will need to be coordinated with whichever classification option discussed in Section 1 of this document is selected. With a move to occupational categories and broad classes, the need to consider skill or competency requirements will likely become an important factor.

## **5. Options for Performance Factors**

Whether performance becomes an optional factor or a mandatory factor in making layoff decisions, there will need to be alternative ways to incorporate it. The team also

recognized that an appropriate performance appraisal tool is needed to be able to use performance as a factor in any RIF decision (discussed in Section 3, Performance Management).

The use of performance as an absolute or sole factor in lay-off was not considered a viable option. It is too much of a cultural change given all the other proposed changes for the new HR system and would not be consistent with employee and manager preferences as expressed in the DOP customer survey.

*Recommendation:*

*Each agency/institution would decide how to factor in performance. This option takes into account that the state has a wide variety of jobs, some of which lend themselves to significant performance differences and some of which do not. DOP would need to provide guidelines and models.*

## **6. Options for Skills and Competency Factors**

Inappropriate job matches is one of the biggest problems that organizations and employees face with the current RIF policies and practices. Presently, the only tools available to mitigate this are the use of selective (general government) or specific position requirements (higher education) and the ability to waive. The present process for doing so is cumbersome and often ineffective. With broader classes and the use of desirable rather than minimum qualifications, it will become even more critical to have an effective means of identifying skill and competency needs by position.

*Recommendation:*

*Provide criteria in rule that agencies/institutions could use to make decentralized decisions about skill and competency requirements.*

*For example, agencies/institutions could decide skill/competency requirements for their positions based upon documented information such as:*

- Licensing/certification*
- Minimum qualifications*
- Recent position review*
- Position specification requirements*
- Requirements at last recruitment*
- Current position assessment (at time of layoff)*
- Other documented criteria*

## **Notification Options**

*Recommendation:*

*The following provisions should be addressed regarding notification issues:*

- *Retain 15 day minimum notification period, encouraging agencies to provide more if possible*
- *RIF option selection period per organization's RIF plan, or as negotiated*
- *Provisions for employee to waive notification requirement to move to another vacant position, or another agency*
- *Provisions allowing employer to provide pay in lieu of notice for termination*
- *Update notification requirements to those on layoff lists*

## **Reasons for Layoff**

### *Recommendation:*

*It is recommended using the language developed for the merger rules, with the addition of the clause "reasons include, but are not limited to...". The reasons for layoff are:*

- *Lack of funds*
- *Lack of work*
- *Good faith reorganization for efficiency purposes*
- *Ineligibility to continue in a position which has been reallocated*
- *When there are fewer positions than there are employees entitled to such positions either by statute or within other provisions of merit system rules*

## **DOP Approval of Agency/Institution Layoff Procedures**

Currently, the personnel system WACs require agencies and institutions to develop a RIF policy and to submit it to DOP for approval. The process is very time-consuming for agencies and DOP; and, even though DOP approves the procedure, layoff is still subject to appeal.

### *Recommendation:*

*Discontinue the requirement for DOP approval of layoff procedures.*

## **Re-employment from RIF**

The RIF Concept Design Team looked at alternative criteria for re-hiring individuals laid off as a consequence of a reduction-in-force. Options are described below for internal re-hire lists, statewide re-hire lists, and the RIF Transition Pool (RTP).

Within an organization, the basis for re-hire could be the same as the basis for layoff, if the number of names is limited. This basis could potentially be different in different organizations. In all cases, the only laid off employees eligible for the re-hire lists would be those with permanent status in the job class or lower level class series.



## **1. RIF Re-hire Options - Internal List:**

### **Time on Re-hire List (or register):**

#### Option 1:

Two years with the ability to extend one year.

#### Option 2:

Two years.

*Recommendation: TBD*

### **Number of Names Referred:**

Mandatory hiring and inappropriate job matches are significant issues for managers. The need for a job and limited opportunity for waivers may cause employees to accept positions they would not prefer. The more open the referral is, the better the chance of good matches. However, wider competition potentially decreases the opportunity for re-hire; and the broader the opportunity, the further away from the concept of “making the person whole.” Broader classes are likely to require an even greater need for the ability to do good job matching.

#### Option 1:

All internal RIF names. This would open the job match choice.

#### Option 2:

All internal RIF names plus internal promotional names. This opens the job match choice, but increases competition.

#### Option 3:

Consider all internal RIF names, plus all internal movement names (promotion, transfer, etc.).

*Recommendation: TBD*

### **Transition Review Period:**

The concept of a transitional review period is consistent with that of the merger rules and the current RTP practices. It is a no-fault period during which either the organization or the employee can decide the job match is not good, and the employee retains the right to return to RIF registers.

*Recommendation:*

*Employer determines if employee serves alternate review period when appointed from an internal re-hire list.*

## **2. RIF Re-hire Options - Statewide List:**

### **Time on Statewide Re-hire List (or register):**

#### Option 1:

Two years with the ability to extend one year.

#### Option 2:

Two years.

*Recommendation: TBD*

### **Number of Names Referred:**

#### Option 1:

All RIF names plus an unspecified number of internal promotional names.

#### Option 2:

All RIF names, plus all system-wide movement names.

#### Option 3:

Ability to consider all names referred.

*Recommendation: TBD*

### **Transition Review Period:**

*Recommendation:*

*Employer determines if employee serves alternate review period when appointed from the statewide re-hire list.*

## **3. Re-Hire Options – RIF Transition Pool (RTP) List:**

*Recommendation:*

*Any employee laid off or at risk of RIF would be eligible for the RTP. The person's name would normally remain on the list for two years. The number of names referred would be those with 80% or higher skill match. All those appointed would be required to serve a transition review period. The team felt there should be an unlimited number of waivers for employees on this list. Performance can be factored in at the time of interviewing.*

## **Further Considerations**

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The RIF Concept Design Team recognized the need to have a strong performance management system in place if performance is to be a factor in any RIF and re-employment from RIF. Commitment by the agency/institution to do performance evaluations well and on time is critically important. A supplementary tool with some type of rating scale based on observable behavior/performance would likely be needed. Additional tools or support may also be needed to identify skills or competencies in the broader class structure. These performance management concepts are discussed in detail in Section 3 of this document.

### **Employee Support Needs**

- General information and training on RIF process and potential outcomes
- Job opportunities in other agencies, and outplacement services
- Counseling or referral (fiscal, mental health, etc.)
- Information about unemployment insurance, health care, retirement, and deferred compensation
- Job search tools and techniques
- Re-location information
- Information on appeals
- Re-training opportunities

The following services are currently provided by DOP for employees:

- **RIF Information Sessions:** The DOP offers RIF information sessions to provide a one-stop source where laid off, at risk, or affected employees of a RIF can gather information, sit in on training sessions of interest to them, and talk to representatives to get their questions answered. DOP can have job fair recruiters available at these sessions to provide up-to-date recruiting opportunities.
- **Career Services Program:** The DOP Career Services Program offers a variety of workshops and services to assist employees during their job search or career transition. They assist in determining individual needs, evaluate options, and help access appropriate workshops, resources, and services. One-on-one guidance advisors are available on all aspects of conducting a career transition, including: job search action plan, networking resources, resume advice and critique, state application assistance/review, interviewing techniques, connections to DOP staff expertise, and RIF/layoff career changes.
- **RIF Transition Pool (RTP):** Employees who have been separated by a RIF or notified by their agency that they are “at risk” of being laid off are eligible for

placement in the RTP located at the Department of Personnel. The RTP is a job placement service that relies on skills matching to help the employee gain greater exposure to state job opportunities. As openings become available, agencies are given a list of qualified candidates from the RTP for consideration.

- Employee Advisory Service (EAS): EAS provides assistance in dealing with issues employees and supervisors may be facing as a result of the RIF process which can be difficult for staff who are RIF'd, as well as those who are not.

#### **Employer Support Needs (Managers and HR staff):**

- General information and training on RIF process and potential outcomes
- Services and information on sources available to provide to employees
- Stress reduction/coping
- Training and development options for RIF'd employees and those who bump into a different job
- Guidelines, checklists, or models used by other organizations
- Job match options
- Rules and procedures (unit policies, collective bargaining agreements, etc.)

The following services are currently provided by DOP for managers and HR staff:

- RIF Support and Resources Team: Many managers also find the RIF process overwhelming. DOP staff is available to work with managers and with agency human resource staff to explore solutions for individual agencies. The goal is to help agencies understand how the process works.
- Career Transition Services: Program staff are available to work with human resource staff to customize programs for displaced employees within an agency and/or tailor workshops to meet agency needs.

#### **Appeals**

The civil service reform legislation ensures that non-represented employees have appeal rights pertaining to reduction-in-force rules violations. Appeal rights are discussed further in Section 6.

## **Reduction-in-Force Concept Design Team**

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